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Chairman: Mrs. FLORES (Uruguay)

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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 146: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/48/33 and Corr.1, A/48/140-S/25597, A/48/205-S/25923, A/48/209-S/25937, A/48/379-S/26411, A/48/398 and A/48/445-S/26501)

1. Mr. CISSE (Senegal) said that the revised draft document on the improvement of the cooperation between the United Nations and regional organizations (A/48/33, para. 28), originally submitted by the Russian Federation, deserved special attention. His delegation was particularly happy to note that the declaration in question was in line with the initiative taken by the Organization of African Unity (OAU) for creating a dispute settlement mechanism in Africa. The United Nations and the regional organizations should be viewed as mechanisms that were complementary to each other. It was clear from the Charter that regional arrangements were part of the collective security system of the Organization. In that context, it was worth noting the example of cooperation between the United Nations and OAU in the search for solutions in Liberia, Rwanda, Mozambique, Angola, Somalia, Western Sahara and South Africa.

2. In the modern world, international peace and security should no longer be conceived as being merely the absence of armed conflict, but rather as extending to the eradication of poverty and underdevelopment, which were the greatest threats to international peace and security. The delegation of Senegal was therefore in favour of having the Special Committee continue its work on an updated draft, bearing in mind the recommendations contained in the report of the Secretary-General entitled "An Agenda for Peace" (A/47/277-S/24111) and related observations made by delegations and non-governmental organizations during the general debate on the item.

3. Stressing that economic issues were the main concern for Africa, he pointed out the need for regional organizations to deal with both the political and the economic aspects of security, as well as with international cooperation in that area.

4. His delegation was pleased to note that the draft declaration submitted by the Russian Federation attached to the role of the Secretary-General of the United Nations the importance it deserved. The proposal that the Secretary-General and the leaders of the regional organizations should meet from time to time to exchange information relating to disputes and situations which might endanger international peace and security was a constructive one. In the view of his delegation, the Secretary-General, who, under the Charter, was the person mainly responsible for the maintenance of international peace and security, should encourage efforts aimed at the peaceful settlement of local disputes through the regional agencies. His delegation also felt that the revised draft document should place greater emphasis on the role which the Charter assigned to the General Assembly in the field of international peace and security.

5. Another important aspect of the Special Committee's work was the matter of assistance to third States affected by the application of sanctions under Chapter VII of the Charter. His country felt that more attention should be given to the situation of States that were affected indirectly by preventive or

(Mr. Cisse, Senegal)

enforcement measures, as envisaged in Article 50 of the Charter. Consideration should be given to the possibility of setting up a working group at the next session of the Special Committee.

6. Turning to the question of peaceful settlement of disputes between States, he said that the proposed "United Nations rules for the conciliation of disputes between States" submitted by the Guatemalan delegation (A/48/33, para. 122) would help strengthen existing provisions on the subject, including those of the Manila Declaration on the Peaceful Settlement of International Disputes. His delegation looked forward to the revised draft to be submitted by the delegation of Guatemala at the next session of the Special Committee.

7. Mr. MOTSYK (Ukraine) said that his delegation welcomed the updated proposal by the Russian Federation on cooperation between the United Nations and regional organizations (A/48/33, para. 28). At a time of growing demands on the United Nations, regional organizations, which were a substantive part of the collective security system envisaged in the Charter, had an important role to play in the maintenance of international peace and security, particularly in the area of preventive diplomacy. The activities of the United Nations and the regional organizations in the settlement of conflicts complemented each other. In that connection, his delegation supported the view that the Conference on Security and Cooperation in Europe should become an effective instrument in preventing conflicts throughout Europe. At the same time, his country vigorously opposed attempts by certain States to acquire for themselves special rights under the guise of regional arrangements.

8. His delegation attached special importance to paragraphs 23-26 of the Russian draft. At the same time, it attributed special significance to the Mexican amendment suggesting the inclusion in the preamble of provisions concerning respect for sovereign equality, territorial integrity and political independence of States. Strict observance of those principles, as well as of the principle of the inviolability of frontiers, were of crucial importance in any undertaking aimed at promoting international peace and security.

9. On the question of peaceful settlement of disputes, his delegation would like to pay tribute to the initiative of Guatemala (A/48/33, para. 122), which could lead to the establishment of a set of model rules that might facilitate the resort to conciliation.

10. Turning to the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, he said he now wished to comment on the working paper submitted to the Special Committee by his delegation and others (A/48/33, para. 98). At the time of the adoption of the Charter, there had been no urgent need for Article 50, which dealt with that issue. However, on the threshold of the 1990s, Article 50 had turned into a subject of great interest to many States, since the Security Council had begun actively applying economic sanctions under Chapter VII. Sanctions led unavoidably to situations in which third States experienced economic difficulties. In particular, a number of States, including Ukraine, had suffered considerable economic losses as a result of the sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro). Article 50 of the Charter envisaged the right of

(Mr. Motsyk, Ukraine)

States confronted with special economic problems to consult the Security Council with regard to a solution of those problems. His delegation did not share the position of those countries which interpreted article 50 as providing the right to consult and nothing more. The significance of Article 50 lay in an effort to solve or at least mitigate the economic hardships of third States due to the implementation of sanctions. That was the goal of the proposals contained in the working paper submitted by his delegation and others. He hoped that the Special Committee would continue its consideration of that working paper at its next session.

11. His delegation appreciated the work that had been done in the working group on Article 50 in the framework of item 10 of the agenda of the forty-seventh session of the General Assembly, in connection with the report of the Secretary-General entitled "An Agenda for Peace", which had led to the inclusion of section IV in resolution 47/120 B, adopted on 20 September 1993. The provisions of section IV were the first important steps towards solving the problems confronting third countries in connection with the implementation of Security Council sanctions. However, those provisions represented no more than the first steps. At the current session of the General Assembly his delegation had circulated its proposals concerning possible ways of implementing Article 50. In essence, the proposals focused on the establishment of an ad hoc working group and the inclusion in the agenda of the forty-ninth session of the General Assembly of an item on special economic problems arising from the implementation of preventive and enforcement measures. It would be desirable to adopt a separate draft resolution in the framework of agenda item 152 or, if appropriate, to include relevant paragraphs in the draft resolutions traditionally adopted under the item currently before the Sixth Committee.

12. Turning to the matter of membership of the Security Council, he said that his delegation considered the idea of a three-tier model a constructive one. It also shared the view that the veto should be modified. At the same time, it felt that the Council must retain its clear-cut and businesslike style of work, in order to be in a position to react without delay to situations calling for speedy intervention, to consider such situations at short notice and to take appropriate decisions. His delegation's position on that issue was set forth in document A/48/264/Add.2, circulated under agenda item 33, on the question of equitable representation on and increase in the membership of the Security Council.

13. Lastly, a careful study must be undertaken with a view to bringing some other provisions of the Charter into line with the new realities. Member States must revitalize the provisions of the Charter and strengthen the role of the United Nations in world affairs.

14. Mr. WALDEN (Israel) said that his delegation had read with great interest the draft document submitted to the Special Committee by the Russian Federation, on the improvement of cooperation between the United Nations and regional organizations (A/48/33, para. 28). The document was a valuable storehouse of suggestions and recommendations; it should not, however, be treated as a rigid agenda to be implemented in full by each and every regional agency. His delegation fully agreed with the view expressed by the Secretary-General in his report entitled "An Agenda for Peace" (A/47/277-S/24111, para. 62), regarding

(Mr. Walden, Israel)

the importance of flexibility. In particular, every effort must be made to avoid institutionalizing the relationship between the United Nations and regional agencies, or subordinating one to the other. It was true indeed that under Article 53 of the Charter responsibility for enforcement action was and must remain that of the Security Council, and that, in that respect only, regional agencies were subordinate to the Security Council. That was emphasized in paragraphs 19 and 20 of the draft document submitted by the Russian Federation. In the more general field of conflict management and containment, however, regional activity could take many forms.

15. The value of regional arrangements or agencies could not but be impaired by their failure to respect the principles of universality and equality. That was no less true of those regional arrangements that existed within the United Nations system. His delegation considered that a revised version of the draft document should reflect that position.

16. His delegation had also studied with interest the revised working paper submitted by the Russian Federation entitled "New issues for consideration in the Special Committee" (A/48/33, para. 95). In that regard, his delegation held the view that an investigation of the peaceful settlement of disputes with the aid of a third party would indeed be of value, but it was premature to think of casting the results in the form of a draft convention. It would be preferable, at the present stage, to prepare a set of points, and consider only at a later stage whether they should be formulated as a convention, as model rules or in some other way. With regard to the adaptation of the Charter to changing developments in international relations, his delegation considered that the inevitable process of implicit adaptation by practice was generally preferable to any attempt to supplement or interpret the Charter by any of the express and formal means listed in paragraph 3 of the revised working paper. No adaptation of the Charter could be truly effective unless it met with a broad degree of consensus, and an empirical, step-by-step approach was more likely to achieve that result.

17. His delegation welcomed the valuable work that had been carried out by Guatemala in preparing the draft United Nations rules for the conciliation of disputes between States (A/48/33, para. 122), and would encourage further discussion of the draft in the light of the detailed comments recorded in the report of the Special Committee. However, even at the current stage, it was important to be clear as to the type of document to be produced. Conciliation was essentially a consensual process of dispute settlement. The rules being developed were valuable in so far as they suggested possible procedures for adoption in any individual case, but there should be no suggestion that those procedures were preferable to others.

18. Draft article 2 of the rules contemplated that conciliation proceedings would always commence with a formal invitation by one State to another; in fact, however, it was at least equally likely that proceedings would be commenced by a joint agreement, and the draft rules should reflect that possibility.

19. Draft article 5 contemplated the possibility of conciliators being appointed by a third party. However, it was at least as likely that the identity of the conciliators would have been decided before the agreement to

(Mr. Walden, Israel)

submit a conflict to conciliation had been reached, and the draft rules ought not to presume that third-party appointments, in the event of the failure to agree, were the generally preferred option.

20. Generally speaking, the exercise should be seen as one of developing model rules for conciliation, which would be available for States to use in whole or in part in formulating an agreement to conciliate, but which should not be regarded as having preferred status with regard to any other formulations.

21. Mr. FSADNI (Malta) said that the various proposals and initiatives for reforming and restructuring the United Nations, including those contained in the 1993 report of the Special Committee, should not be evaluated in isolation but as an integral part of a comprehensive exercise so as not to distort the fine balance between the Organization's main organs.

22. The size and composition of the Security Council had once again featured prominently in the general debate of the Special Committee. One of the important objectives of any enlargement of the Security Council's membership must be to ensure balance and equity in its composition in relation to United Nations membership. Account must be taken of adequate regional representation, the size and status of individual Member States and the need to create reasonable opportunities for all Member States to take their turn in serving on the Council.

23. His delegation was pleased to note that the General Assembly had adopted resolution 47/233, which was an important step towards the goal of revitalizing the General Assembly in the light of an increasingly active Security Council. However, a great deal of work remained to be done to enhance the effectiveness and relevance of the General Assembly's deliberative and consensus-building role.

24. His delegation supported the view that the role of the International Court of Justice needed to be enhanced (A/48/33, para. 20). It also reaffirmed its support for the proposal to authorize the Secretary-General, under Article 96, paragraph 2, of the Charter of the United Nations, to request advisory opinions from the International Court of Justice. It believed that more frequent recourse to the Court by States, the General Assembly, the Security Council and international organizations would be beneficial to the development of international law and contribute to its increased observance in international relations.

25. As a committed member of regional organizations, Malta believed that they were vital in facilitating and strengthening foreign relations, and it was also conscious of the need for cooperation between the United Nations and regional arrangements and organizations. The 1992 Helsinki Summit of the Conference on Security and Cooperation in Europe (CSCE) had accepted Malta's proposal to designate CSCE as a regional arrangement under Chapter VIII of the Charter of the United Nations. In that context, his delegation noted with appreciation the stimulating exchange of views during the Special Committee's 1993 session on the question of the cooperation between the United Nations and regional organizations in the maintenance of international peace and security, and the consideration by the Working Group of the revised version of the relevant draft

(Mr. Fsadni, Malta)

document submitted by the Russian Federation (A/48/33, para. 28). His delegation welcomed the first participation ever in the Special Committee by intergovernmental organizations. It supported closer cooperation between the United Nations and CSCE, and it had joined other Member States in requesting the inclusion of item 58, entitled "Observer status for the Conference on Security and Cooperation in Europe in the General Assembly" in the agenda of the forty-eighth session of the General Assembly.

26. The Maltese Government had never wavered in its fulfilment of its obligations under Article 25 of the Charter, even though on occasion that had meant economic hardship. The experience had helped his Government to understand and associate itself with the strong and widespread call for the correct implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter.

27. Some delegations had advocated a restrictive interpretation of Article 50 of the Charter, which granted States the right to consult the Security Council with regard to a solution of special economic problems arising from the carrying out of preventive or enforcement measures. His delegation believed that the right to consult should be interpreted within the context of the other Articles contained in Chapter VII of the Charter, particularly Article 49, which provided that Members of the United Nations should afford mutual assistance in carrying out the measures decided upon by the Security Council.

28. In an effort to address the practical problems which had arisen in implementing those provisions, Malta had joined 18 other Member States in submitting to the Special Committee, a Working Paper (A/48/33, para. 98) which proposed one possible solution. His delegation appreciated the difficulties raised by some other delegations on that solution and was willing to consider other mutually acceptable solutions. However, since the issue had been discussed in considerable depth not only in the Special Committee but also in the General Assembly and Security Council, the time had come for urgent action to be taken to address the problems. The recent positive surge in Security Council activity might lead to more instances of preventive or enforcement measures being taken by the Security Council, and in an increasingly interdependent world economy those measures would inevitably cause a degree of economic hardship to innocent third-party States. Recent experience had shown that no region was immune from those problems. The implementation of the relevant provisions of the Charter based on the concept of the equitable sharing of economic burdens was in the collective and individual interest of all the Members of the United Nations.

29. Mr. BASNET (Nepal) said that if the United Nations was to fulfil its heightened expectations in the post-cold-war era with maximum flexibility, the mechanisms and processes at its disposal needed to be refined and strengthened. A review of the membership of the Security Council had assumed great urgency in view of the growing demands in the area of the maintenance of international peace and security. Full compliance with Article 24, paragraphs 1 and 3, of the Charter was vitally important in that regard and his delegation looked forward to a thorough discussion of the matter during the forty-eighth session of the General Assembly.

(Mr. Basnet, Nepal)

30. Measures were also needed to revitalize the General Assembly and Article 15 of the Charter was particularly relevant in that connection. The process that had started with the restructuring of the Main Committees must be pursued and broadened.

31. Among the important issues dealt with by the Special Committee at its 1993 session was the question of ways and means of implementing the provisions of Article 50 of the Charter. His delegation regretted that the Committee had been unable to reach a consensus on the issue. The Security Council had central responsibility on the question, and the economic impact of sanctions had to be approached on a case-by-case basis. On the face of it, there was nothing in Article 50 on the legal right to compensation and there could be no conditionality in carrying out the obligations arising out of Security Council decisions under Chapter VII of the Charter. However, it was urgent to act in a manner which encouraged States to implement Council decisions. His delegation had therefore supported the idea of establishing a trust fund to assist in the amelioration of the unintended impact of economic sanctions on third States. It was however open to suggestions from other States on the topic.

32. While the need for another instrument relating to dispute conciliation was open to question, the discussions in the Special Committee on the draft articles entitled "United Nations rules for the conciliation of disputes between States" (A/48/33, para. 122), submitted by Guatemala, had been useful. His delegation had an open mind with regard to the final form of the instrument.

33. His delegation also appreciated the Russian Federation's draft document on the improvement of cooperation between the United Nations and regional organizations, whose goal was to implement the long-neglected provisions of Chapter VIII of the Charter, which dealt with regional arrangements. Indeed, in that spirit, intergovernmental organizations had participated in the Special Committee's 1993 session. While an inflexible system of cooperation between the United Nations and regional organizations might not be desirable, complementary sharing of responsibility in the maintenance of international peace and security was a worthy goal. In any event, any system of cooperation should be based on the provisions of the Charter, including respect for the principles of the sovereign equality of States and non-interference in the internal affairs of States.

34. His delegation was convinced that the real strength of collective security lay in the ability to implement fully provisions relating to the peaceful settlement of disputes. It continued to believe that the General Assembly and the Security Council should have more frequent recourse to advisory opinions from the International Court of Justice, thus enhancing the role of the principal judicial organ of the United Nations. It supported the Secretary-General's proposal that he should be authorized to seek advisory opinions from the Court, which could only enhance his capacity for preventive diplomacy.

35. Mr. AYEWAH (Nigeria) said that at the 1993 session of the Special Committee, intergovernmental organizations and the representative of a permanent observer mission had been invited for the first time to participate in the plenary meetings on certain agenda items. That, together with the fact that all the members of the Committee and 58 other observer States had attended the session, showed that there was increased interest in the work of the Committee.

36. A critical examination of the structure of the United Nations was timely in view of the need to enhance the effectiveness of the Organization and enable it to respond successfully to a changing world. Membership of the Security Council should be expanded to admit additional permanent members so that all regions of the world would be represented, thus enhancing the legitimacy, as well as the moral and political authority of the Security Council.

37. The mechanism for preventive diplomacy and peaceful settlement of disputes should be strengthened, while the relationship between the Security Council and the General Assembly on the question of the maintenance of international peace and security should be enhanced. The General Assembly's broad representation made it an effective partner in that field and it should be adequately consulted and effectively utilized.

38. His delegation wished to express its appreciation to the Russian Federation for the revised draft document on the improvement of cooperation between the United Nations and regional organizations (A/48/33, para. 28). It was a useful working document since regional conflicts constituted a key threat to the achievement of global peace and security. The participation of intergovernmental organizations in the plenary meeting on that agenda item was to be welcomed. However, any enhancement efforts could only be undertaken after the Special Committee had assessed the existing level of cooperation between the United Nations and regional organizations and therefore it was doubtful that a draft declaration would be appropriate without a thorough examination and analysis of the practical issues involved.

39. His delegation shared the view that due consideration and emphasis should be given in the draft document to the need for some regional organizations to fulfil effectively the role envisaged for them in peace-keeping operations, in particular since some of them might be constrained by inadequate resources and logistical support, making the need for enhanced cooperation between them and the United Nations compelling.

40. The revised working paper submitted by Cuba on strengthening of the role of the Organization and enhancement of its efficiency (A/48/33, para. 90) and the revised proposal submitted by the Libyan Arab Jamahiriya with a view to enhancing the effectiveness of the Security Council in regard to the maintenance of international peace and security (A/48/33, para. 93) provided interesting perspectives on those topics and might facilitate their consideration by the Special Committee during its 1994 session.

41. The working papers submitted on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/48/33, paras. 98-99) were timely and required immediate attention. The existing system of rendering assistance was inadequate and might result in the unwillingness of

(Mr. Ayewah, Nigeria)

Member States to implement United Nations sanctions. His delegation therefore wished to suggest that the sponsors of the two papers should combine their texts.

42. His delegation noted with satisfaction the submission by Guatemala of a revised text of the United Nations rules for conciliation of disputes between States (A/48/33, para. 122). At its completion, scheduled for the 1994 session, it would contribute immensely to the further development of the mechanism of prevention and peaceful settlement of disputes between States.

43. In conclusion, his delegation looked forward to contributing to the discussions on the revised working paper submitted by the Russian Federation entitled "New issues for consideration in the Special Committee" (A/48/33, para. 95), since the ideas contained in it were bold and imaginative.

44. Mr. NEUHAUS (Australia) said that Australia had once more participated as an observer in the 1993 deliberations of the Special Committee and continued to take a strong interest in its increasingly important work. As a member of the South Pacific Forum, Australia had been particularly pleased to see the participation of that regional organization, with others, for the first time at the session.

45. Much of the general debate had focused on the size and composition of the Security Council. There was now widespread acceptance of the principle of the limited expansion of that body but, while supporting that principle, Australia would not support an extension of the veto power. It was essential that the legitimacy of the Council to act for the international community was maintained and indeed enhanced as the United Nations was expected to do more for international security.

46. The general debate had also covered the role of the International Court of Justice. His delegation agreed that the Court had a part to play in preventive diplomacy and believed that the greater use of its advisory opinion mechanism could be particularly helpful in that respect.

47. Australia was grateful to the Russian Federation for having provided a useful basis for discussion on cooperation between the United Nations and regional organizations through its draft document on that topic (A/48/33, para. 28). At the same time, it considered that it would be necessary in future consideration of the matter to attempt to define more rigorously those areas which fell within the ambit of the task of furthering the maintenance of international peace and security through cooperation between the United Nations and regional organizations. The elements in the paper relating to disarmament and human rights were particularly important aspects of the peace-building and preventive diplomacy roles to which regional organizations were often well suited. The work done by the Special Committee on dispute settlement was also important in that context and it was to be hoped that it could be brought to a conclusion in 1994. The new paper on that topic submitted by the Permanent Representative of Sierra Leone (A/48/398) was another useful contribution and his delegation looked forward to studying it further.

(Mr. Neuhaus, Australia)

48. Australia supported the view that third States affected by the application of sanctions under Chapter VII of the Charter needed to be assisted. It was clear that mere consultation between the Security Council and affected third States, as provided for in Article 50 of the Charter, could only be the starting-point. A fair and effective system to mitigate the negative consequences of sanctions for third parties must be instituted. One possible source of compensation for affected States could be a levy on the target State, but that would depend on the ability of the target State to pay and the time-frame in which compensation was required. Other sources of funds for compensation might well be necessary. Regardless of the source of funds, it would be necessary to put in place an objective method of assessing Member States' claimed losses as a result of sanctions so as to ensure a consistent approach to such claims.

49. Given the growing importance of its work, the time might well have come to expand the Special Committee, even to make it a Committee of the Whole.

50. Mr. ROSENSTOCK (United States of America) said that the Special Committee could and would undoubtedly continue to help strengthen the role of the United Nations. The Special Committee already had some noteworthy achievements to its credit, including the Manila Declaration on the Peaceful Settlement of International Disputes and its work on preventive diplomacy and fact-finding, and it was clearly the most appropriate forum for responding to the rapid changes currently sweeping the globe.

51. Dispute settlement was one area in which the Special Committee could make an important contribution. The Committee was to be commended in that connection for its innovative approach, during its 1993 session, to furthering progress on the draft United Nations rules for the conciliation of disputes between States (A/48/33, para. 122). In comparison with other methods, conciliation represented a less costly, more rapid and less cumbersome procedure conducted in an informal, cooperative and non-adversarial atmosphere. The draft rules, while striking an excellent balance between the detailed and the general, did contain certain elements which might escalate the parties' costs and lead to delay. The next version of the text, which was currently being revised by Guatemala, would undoubtedly command widespread support. His delegation looked forward to reviewing it before the Special Committee's next session.

52. The Special Committee could also contribute significantly to improving cooperation between the United Nations and regional organizations. Although the draft document on that subject (A/48/33, para. 28) was overly ambitious and broad, a more simplified and widely acceptable version was certainly feasible. The importance of the issue was underlined by recent Security Council resolutions which expressly cited Chapter VIII of the Charter and by actual practice in Africa, the Caribbean and Europe. In any system of cooperation between the United Nations and regional organizations, for which the need clearly existed, the two should strive to complement each other.

53. His country shared the concerns about third States affected by the application of sanctions, and in particular multiple sanctions, under Chapter VII of the Charter. While some States bore heavier burdens than others,

(Mr. Rosenstock, United States)

all States were inevitably affected by such sanctions and shared a common purpose - the restoration of peace and security.

54. In drafting the resolutions under which sanctions were applied, the United States and other Security Council members had recognized the need to be sensitive to the impact those sanctions might have on third countries in the region. Despite those precautions, the implementation of certain sanctions had no doubt adversely affected the economies of many States. His country was willing to give serious consideration, within the framework of international financial institutions or on a bilateral basis, to well-designed regional infrastructure projects which would promote trade with key markets.

55. The issue of assistance to third States merited further consideration both by the Security Council, which naturally had primary responsibility for the maintenance of international peace and security, and by the Special Committee, which ought in future to be the forum in which the General Assembly gave consideration to that matter. At the same time, repeated discussions of the same issue in various forums and under various headings should be avoided, as that led only to a softening of focus, thereby diminishing the efficiency of the Organization.

56. He shared the Spanish delegation's view that the Special Committee should concentrate on its current agenda.

57. Mr. HALLAK (Syrian Arab Republic) said that the role of the General Assembly in maintaining international peace and security should be strengthened in view of the changes which had taken place in the world. The increase in the membership of the United Nations should be reflected in the composition of its bodies, on the basis of equitable geographical representation. What was required was a comprehensive review of the working methods of the Organization, proposals aimed at ensuring strict implementation of the Charter, and action to lay the groundwork for an international system in which political and economic relations were more equitable and democratic.

58. The United Nations should be restructured by democratically reforming decision-making to reflect majority opinion. The Charter was a constitutional document capable of meeting the emerging needs of the international community, and a legal tool capable of permitting progress in maintaining peace. The Special Committee should therefore undertake a systematic legal review of the current process of piecemeal reform to ensure that the Charter was adaptable to global circumstances.

59. Membership of the Security Council should also be reviewed and its work democratized with a view to enhancing its efficiency and ensuring fulfilment of its mandate under the Charter to maintain international peace and security. An equal number of permanent and non-permanent seats should be allotted to States of the North and South in order to widen participation in the decision-making process, which should be balanced, fair and non-selective, and to ensure that the Security Council functioned as intended by the founders of the Organization. The relationship between the General Assembly and the Security Council should also be more balanced and cooperative, to which end Article 15, paragraph 1, and Article 24, paragraph 3, of the Charter should be fully implemented.

(Mr. Hallack, Syrian Arab Republic)

60. The United Nations and regional organizations should cooperate to maintain peace in accordance with the principles of the Charter, which included the principles of equal sovereignty and non-interference in internal affairs.

61. With regard to implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, his delegation welcomed the recommendation of the Secretary-General that the Security Council should devise measures to insulate States from such difficulties and encourage them to cooperate with decisions of the Council.

62. While the document concerning the peaceful settlement of disputes between States formed a useful basis for discussion, there was still room for improvement and more flexibility.

63. Stressing the need to strengthen the role of the International Court of Justice, he said that the General Assembly and the Security Council should seek its legal opinion more often and consult it on the legal aspects of political disputes.

64. Mr. EL-ARABI (Egypt) said that international developments should prompt a comprehensive review of the working methods of the United Nations, an in-depth study of its ability to fulfil its responsibilities under the Charter and the formulation of proposals to help it shoulder its increasing burden. The need for a review had become increasingly apparent, as was reflected in the proposals contained in "An Agenda for Peace", in General Assembly resolution 47/233, and in the efforts to restructure the United Nations in the economic and social fields. The Special Committee could play a pivotal role in reviewing the Charter and ensuring that it was adaptable to international circumstances, and the time had come for the Special Committee to embark on that task with a view to defining a framework of action to achieve the desired development.

65. As the work of the General Assembly was already under review, his delegation would restrict its comments to the work of the Security Council, which had the major responsibility for maintaining security. The main justification for expanding the Council was to achieve a balance between its membership and that of the United Nations as a whole, so as to increase the scope of decision-making in the Council, thus enhancing its credibility and ensuring that States would respond favourably to its resolutions.

66. The numerous proposals submitted for expanding the Security Council should be examined in the light of the provisions of the Charter, notably Article 23, paragraph 1, which stipulated "due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security." Regional weighting was also a factor to consider, as was the role of regional organizations in shaping regional and international relations and their participation in United Nations activities related to the maintenance of international peace and security, particularly peace-keeping operations.

(Mr. El-Arabi, Egypt)

67. In order to maintain the Council's efficiency, any increase in its membership should be limited. More importantly, the right of veto, which was still subject to broad interpretation, should be properly defined. His delegation proposed that certain matters outside the framework of Chapter VII of the Charter should not be subject to veto, for example resolutions on cease-fires, preventive diplomacy and the establishment of weapons-free zones. The legal aspect of the veto should be studied in the proper constitutional framework of the Charter, not with the aim of dispensing with the veto altogether, but with the aim of profiting from the propitious international climate and the current understanding between the permanent members in order to ensure that the Council functioned smoothly and became more efficient. Guarantees should be established so that the bitter experience of abuse of the veto was not repeated.

68. His delegation attached particular importance to the peaceful settlement of disputes and the effective contribution which the International Court of Justice could make in that connection. It therefore endorsed the steps taken by the General Assembly in resolution 47/120 B to strengthen the role of the Court, particularly by seeking its advice on such matters.

69. With regard to strengthening cooperation between the United Nations and regional organizations, his delegation reaffirmed its conviction that such organizations had an important role to play in maintaining regional peace and security, with responsibility being divided between them and the United Nations. As a first step, clear agreement should be reached as to the aims of such cooperation. As success could only be achieved by taking into account the views of regional organizations, his delegation welcomed the participation of their representatives in the 1993 session of the Special Commitee, which would help facilitate the formulation of a concrete position on that cooperation.

70. Article 50 of the Charter was particularly important in view of the grave damage still being suffered by many States due to the imposition of sanctions. A just means should be found to guarantee that no State or group of States shouldered unwarranted burdens in that connection, and a framework should be devised for consultations between the Security Council and third States likely to be affected before any sanctions were imposed, so that assistance to those States could be taken into consideration when determining the form and scope of the sanctions. That view was based mainly on his delegation's conviction that solutions aimed at reducing the effects of existing sanctions had limited effects, given the large number of requests submitted. The problem should therefore be addressed before it occurred, which should not affect the ability of the Security Council to respond quickly and effectively to the requirements of maintaining peace and international security.

71. The issues presented to the Special Committee should be considered fully and with the utmost objectivity, with a view to helping the United Nations to achieve the purposes and respect the principles of the Charter.

72. Ms. ARIFFIN (Malaysia) said that the United Nations and its Charter had to be restructured to reflect current geopolitical realities, which were dramatically different from those existing when the Organization was founded. Her delegation was heartened by the growing support for the revitalization of the Organization and applauded all efforts to make it into a truly effective universal forum for maintaining peace and security, facilitating international cooperation and promoting world progress. In particular, the Organization must be able to respond appropriately and effectively to urgent problems; an early warning mechanism was needed in order to identify potential areas of conflict, thereby giving the Organization an opportunity to engage in preventive diplomacy and to settle disputes peacefully.

73. Equal emphasis should be given to promoting the overall economic advancement of the developing countries. Member States, in particular the more advanced, must be prepared to meet their obligations under various United Nations resolutions and help establish an international environment conducive to that economic progress.

74. The restructuring process should also promote more democracy within the United Nations. In that connection, her country had consistently called for reform of the Security Council to provide greater transparency and accountability. It firmly believed that the Council's membership should be expanded to make it more representative of the Organization's overall membership. It was strongly opposed to and wished to eliminate entirely the permanent members' power of veto, which was the most undemocratic feature of the United Nations. While the system of permanent membership might be maintained, a way must be found to include new permanent members in the Council, an essential criterion for such members being a genuine and sincere interest in international welfare.

75. Reform of the Security Council should be part of the overall restructuring process. The Council's credibility and success depended on its ability to work in harmony with the General Assembly.

76. Moreover, there were drawbacks in relying solely on the Security Council for the maintenance of international peace and security. The Secretary-General's report "An Agenda for Peace" (A/47/277-S/24111) provided some useful suggestions in that connection, in particular with regard to enhancing the role of the General Assembly, the International Court of Justice and regional organizations in the areas of preventive diplomacy, confidence-building, peacemaking and peace-keeping.

77. The prevention and elimination of disputes before they escalated into conflict would surely lessen the Security Council's burden and ensure global stability. Her delegation therefore welcomed the valuable suggestions in the revised draft document on the improvement of cooperation between the United Nations and regional organizations (A/48/33, para.28). It believed, however, that in view of the current international situation, the content of the document should be limited to the question of the maintenance of international peace and security. Cooperation in the economic, social and cultural spheres, which was currently included in the draft text, should be the subject of separate

(Ms. Ariffin, Malaysia)

agreements between regional organizations and the relevant United Nations specialized agencies. Furthermore, the document should make specific reference to the General Assembly's role in the maintenance of international peace and security, as that was expressly provided for under Articles 11, 14 and 15 of the Charter. Lastly, the document should not take the form of a draft declaration; rather, it should serve as a draft proposal for the revision of Chapter VIII of the Charter.

78. Her delegation hoped that at its next session, the Special Committee could consider the question of enhancing the role of the International Court of Justice in the peaceful adjudication of disputes. Implementation of the Secretary-General's proposal that he should be authorized to request advisory opinions from the Court would contribute greatly to United Nations peace-keeping efforts. As mentioned by the President of the International Court of Justice in his statement on 8 October 1993, resort to the Court was an essential part of the process of preventive diplomacy. The Court would also serve as a counterbalance to the Security Council and ensure that justice did not fall victim to political considerations.

79. Her country shared the concerns of the States affected by the application of sanctions under Chapter VII of the Charter. Every State must naturally comply with sanctions in order to ensure their effectiveness, which meant that all States were called upon to make sacrifices. Malaysia had experienced the adverse effects of sanctions but had been able to manage so far. However, some countries were facing real difficulties and deserved assistance. Under Article 50 of the Charter, affected States had the right to consult with the Security Council with regard to a solution of those problems. Yet, that provision was meaningless in the absence of resources. Article 50 should thus be amended to provide a mechanism under which the United Nations would have access to the appropriate financial resources. In that regard, her delegation supported the proposal for the establishment of a fund to provide financial assistance to third States affected by the imposition of sanctions under Chapter VII of the Charter. It would, however, be more appropriate for the proposed fund to be established by the General Assembly since, under the Charter, it was mandated to consider questions concerning the maintenance of international peace and security and the Organization's budget. Such an arrangement would also help to enhance the role of the General Assembly.

80. Mrs. DASCALOPOULOU-LIVADA (Greece) said that owing to the greater role being played by the United Nations in world affairs, the Special Committee had become the natural forum for consideration of new ideas and initiatives arising from the new international climate.

81. Her delegation found great merit in the draft document submitted by the Russian Federation on the improvement of cooperation between the United Nations and regional organizations (A/48/33, para. 28), which dealt with a subject which was increasingly important to international peace and security. While the revised version of the text was on the whole satisfactory, certain sections contained an overabundance of ideas and lacked coherence and, accordingly, needed to be streamlined. In addition, paragraphs 9, 14 and 15 treated ideas which appeared to be outside the scope of the stated objective of the text.

(Mrs. Dascalopoulou-Livada, Greece)

82. The Russian Federation had also submitted a working paper entitled "New issues for consideration in the Special Committee" (A/48/33, para. 95). Particularly worthy of mention in that connection was the proposal concerning the preparation by the Special Committee of a draft convention on the peaceful settlement of disputes. While the Convention on Conciliation and Arbitration, adopted by the Council of the Conference on Security and Cooperation in Europe, might serve as a source of inspiration in that connection, efforts should be made to avoid the shortcomings of the Convention, such as its long list of exclusions from the scope of application of the arbitration procedure. The proposal concerning a draft convention might be considered in conjunction with and in furtherance of the draft United Nations rules for the conciliation of disputes between States (A/48/33, para. 122).

83. Among matters requiring urgent consideration by the Special Committee, the working paper also referred to the question of sanctions against, and related measures for exerting pressure on, a State that had violated the peace or was not implementing Security Council decisions. Her delegation had repeatedly emphasized the importance of that matter, having had the bitter experience of seeing Security Council resolutions relating to the situation in Cyprus remain a dead letter for years.

84. Having already drafted declarations relating to the non-use of force and the peaceful settlement of disputes, it was time for the Special Committee to concentrate on the issue of collective security. In that connection, her country strongly supported the working paper's call for consideration of measures aimed at strengthening the collective security regime provided for in the Charter. In 1993 Greece had circulated a non-paper in the Special Committee, the purpose of which had been to provide some approaches to that issue, and had repeatedly proposed that the subject should be reviewed in the context of the United Nations Decade of International Law. The Special Committee should examine ways and means of concretizing and systematizing the provisions of Chapter VII of the Charter; it might also explore ways of helping States to implement Security Council resolutions under their national legislation.

85. Her delegation was among those States affected most severely by the application of sanctions under Chapter VII of the Charter and shared the concerns of other States so affected.

86. The revised version of the draft articles entitled "United Nations rules for the conciliation of disputes between States" (A/48/33, para. 122) was generally satisfactory and had taken into account most of the comments made at the Committee's previous session. However, the articles needed some additional revision. Article 8 should refer to international law or to the principles of international law; without such a reference, the conciliation commission would lack the concrete guidance it needed to reach satisfactory conclusions and the prevailing insecurity might discourage parties to a dispute from using the procedure. In addition, the first paragraph of article 29 should be deleted: the parties should be able at any time to resort to a procedure leading to mandatory settlement of the dispute.

(Mrs. Dascalopoulou-Livada, Greece)

87. In a statement made on 11 October 1993, the delegation of the former Yugoslav Republic of Macedonia had made an incorrect reference to the name of that State. According to Security Council resolution 817 (1993), the State in question had been admitted to membership in the United Nations and would be "provisionally referred to for all purposes within the United Nations as 'the former Yugoslav Republic of Macedonia' pending settlement of the difference that has arisen over the name of the State". That difference had not yet been settled.

88. Mr. BROWN (Ghana) said that, at the Special Committee's previous session, much attention had been focused on the composition and work of the Security Council. While his delegation in no way disputed the relevance of the arrangement that had brought the Council form into being, it believed that the time for change had come.

89. The Charter of the United Nations had essentially been an agreement by which the victors in the Second World War had sought to forestall the recurrence of another devastating conflict by enabling the Council to act promptly and effectively against any threat to international peace and security. In order to promote consensus among the five major allied Powers, Article 27 of the Charter had given each of them the veto.

90. However, things had changed. As there were no longer any "enemy States" within the meaning of Article 53 of the Charter, continued permanent membership of the Council was irrelevant, outdated and probably undemocratic. Nevertheless, his delegation saw merit in allowing the five permanent members to continue to enjoy that status. However, in order to promote equitable representation and overall balance, the number of seats should be increased, from 15 to 25. Five of those would be held by the current permanent members, while of the remaining 20, 6 should go to African States, 5 to Asian States, 4 to Latin American and Caribbean States, 3 to Western European and other States and 2 to Eastern European States. The application of Article 27, paragraph 3, should be limited to action under Chapter VII of the Charter. By virtue of their economic might and their ability to assume increased obligations, Germany and Japan should become permanent members. Africa should be granted two permanent seats out of the six seats proposed for the region. Latin America and the Caribbean should have one permanent seat out of the region's proposed four. The Asian States should be given a permanent seat out of the five seats allocated to them, in addition to those held by China and Japan. The details of the items to be discussed in the Security Council should be published in the Journal of the United Nations, as was done for the General Assembly. Lastly, the reports of the Security Council to the General Assembly submitted pursuant to Article 24, paragraph 3, should be more comprehensive and analytical so as to enable the Assembly to discharge its duties under Article 11 of the Charter.

91. Mr. TILLERS (Latvia), speaking on behalf of the Baltic countries, said that while the revised draft document on the improvement of the cooperation between the United Nations and regional organizations (A/48/33, para. 28) was clearly a very important contribution to the discussion of steps for reforming and strengthening the United Nations, the Baltic countries had grave reservations with regard to both the form and the content of the document. A number of important matters were dealt with in an ambiguous manner. Specifically, the

(Mr. Tillers, Latvia)

document did not clearly spell out the circumstances under which a group of States was permitted to take regional or collective measures against an individual State. Although the document sometimes suggested that the consent of the target State was a prerequisite for certain types of coercive measures by a regional organization, its wording also allowed a contrary interpretation, namely, that it was sufficient for the members of a regional organization to decide to take measures against a particular State without the consent of that State.

92. Moreover, the terms "regional organizations", "regional agencies" and "regional arrangements" were used interchangeably. Since those terms were not defined, it was unclear what kinds of regional groups were empowered to take the measures described. Some portions of the document appeared to assume that coercive measures against an individual State could be taken under particular circumstances or for particular purposes, such as the restoration of civil order under the auspices of either a "regional organization" or a "regional arrangement". In that connection, the Baltic countries supported the amendment proposed by Mexico.

93. The draft document might be construed as authorizing collective or unilateral intervention in the internal affairs of a member of a "regional arrangement" by another member of such an arrangement, even though the target State had not expressly consented either to participate in the so-called regional arrangement or to permit other participants to intervene in its internal affairs. As currently drafted, the document was open to interpretations that would vastly expand the authority of regional organizations and arrangements while greatly diminishing both the authority of the United Nations and the principle of State sovereignty. The price of any such development would be borne disproportionately by smaller and less powerful States, which would lose some of the protection afforded by the United Nations and would be most likely to be the targets of coercive measures taken under the auspices of regional organizations or arrangements.

94. Mr. SANTISO-LESCALLES (Cuba) said that, at a time of dramatic changes in international relations and renewed efforts by the international community to restructure and further democratize the United Nations, the mandate conferred on the Special Committee by the General Assembly was of particular relevance. For that reason, his delegation had submitted, for the consideration of the Special Committee, the revised working paper entitled "Strengthening of the role of the Organization and enhancement of its efficiency" (A/48/33, para. 90). That document was the result of a consultation process involving many other delegations with similar concerns, as well as some delegations which did not share those concerns but were willing to engage in an exchange of views that might lead to common conclusions. The consultation process was continuing, and his delegation hoped to submit a new revised version of the working paper to the Special Committee at its next session. His delegation trusted that the document would then receive the thorough consideration which it deserved.

95. While the working paper was focused on a set of proposals relating principally to the mandate, functioning and membership of the Security Council, it was also intended to redress imbalances which affected the Organization's ability to fulfil the purposes for which it had been established, as well as its

(Mr. Santiso-Lescalles, Cuba)

democratic character and the efforts to restructure it. Accordingly, to view the Cuban proposals as being concerned solely with reform of the Council would be to ignore their real content. While the scope of the working paper vastly exceeded that of agenda item 33, which had been allocated to the plenary Assembly, one of the proposals which it contained was that the Special Committee should complement the work of the plenary Assembly relating to that item.

96. During the previous session of the Special Committee, insufficient time had been allotted for the consideration of the Cuban proposals. Accordingly, the draft resolution to be adopted by the Sixth Committee on the report of the Special Committee (A/48/33) should reflect clearly the priority to be given to the working paper at the Special Committee's next session.

97. For several years, a group of countries which were not members of the Special Committee, including Cuba, had participated actively in its work as observers, and had expressed interest in becoming members. The substantial growth in membership of the United Nations in recent years made it necessary to consider expanding the membership of the Special Committee so as to make it more representative.

98. Mr. LEGAL (France) said that the Special Committee's previous session had confirmed its role as the leading forum for discussion of the United Nations juridical system. In order to meet the new challenges before it, the Organization undoubtedly required some adjustments and improvements. While those might be rather extensive, they must not imperil the spirit in which the Organization had been established.

99. Turning to the draft document on the improvement of the cooperation between the United Nations and regional organizations (A/48/33, para. 28), he said that the issue with which it dealt was highly relevant in view of the role played by various regional organizations in promoting a settlement of some current conflicts. His delegation believed that a balance must be sought between the role of the United Nations and that of regional organizations. As stipulated by the Charter of the United Nations, while each regional organization could, within its sphere of competence, contribute to the maintenance of international peace and security, the Security Council had overall responsibility in that area, including the right to request the participation of regional organizations. Furthermore, States must endeavour to settle their disputes within the framework of the regional organizations to which they belonged, while retaining the right to bring such disputes before the Council.

100. The question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter was also of obvious relevance. The increasingly frequent use of sanctions measuress by the Security Council could have serious economic and social consequences for third States. While the two working papers submitted on that topic (A/48/33, paras. 98 and 99) reflected legitimate concerns, his delegation had doubts as to their general approach and the possibility of achieving the desired objectives through the methods which they advocated.

(Mr. Legal, France)

101. The proposals to establish a fund financed from assessed and voluntary contributions were intended to institutionalize a system of assistance which would go into effect as soon as sanctions had been imposed. However, the automatic nature of such a mechanism was not only foreign to the spirit of Article 50 of the Charter, but also threatened to paralyse the Security Council, by limiting its action in ways other than those envisaged by the drafters of the Charter. While the United Nations could not remain indifferent to the inequities which might arise from the carrying out of its decisions, the creation of permanent or automatic mechanisms was not necessarily indicated. Furthermore, expenditures which could only partially alleviate the situation of the States concerned would put a further strain on the Organization's budget. It was entirely possible, however, that the Security Council committees overseeing the implementation of sanctions might be empowered by the Council to assess the specific consequences of such sanctions for third States and to propose solutions in conformity with Article 50. It would also be desirable for the international financial institutions to devise ways of responding to exceptional needs. To that end, pragmatic methods should be sought for improving the current functioning of those institutions without compromising their effectiveness.

102. With regard to the peaceful settlement of disputes, while the revised version of the Guatemalan proposal (A/48/33, para. 122) was more flexible, the document was not yet ready to be adopted and should be further discussed.

103. The Secretary-General's report entitled "An Agenda for Peace" (A/47/277-S/24111) contained elements relating to the various aspects of the peaceful settlement of disputes, such as negotiation, mediation, the Secretary-General's good offices, arbitration and resort to the International Court of Justice. In that connection, his delegation welcomed the fact that in recent years, a growing number of States had submitted their disputes to the Court. His Government had contributed $56,603 in 1992 to the Trust Fund established to assist countries in bringing a dispute to the Court.

104. Lastly, while the Secretary-General's proposal that he be authorized, under very specific circumstances, to request consultative opinions from the Court was of interest, its implementation could not fail to raise a number of political and legal difficulties. Accordingly, further study was called for.

The meeting rose at 1.10 p.m.